

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA

Plaintiff,

v.

BOSTON AND MAINE COPORATION

**Defendant/Counterclaim and IT
Third-Party Plaintiff**

Third-Party Plaintiff

v.

TOWN OF AYER, MASSACHUSETTS,

Third-Party Defendant

Civil Action No. 13-10087

NOTICE OF LODGING OF CONSENT DECREE

The United States hereby notifies the Court that it is lodging with the Court today a proposed Consent Decree that resolves all the claims, counter-claims, and third-party claims in the above-captioned action. The United States' complaint, filed on behalf of the United States Department of the Army ("Army") under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9607(a), alleges that Boston and Maine Corporation ("B&M") is liable for the Army's environmental clean-up costs at a portion of the Fort Devens Superfund Site, where B&M formerly owned and operated a railroad roundhouse, in Ayer, Massachusetts (the "Site"). Under Section 113(f) of CERCLA, 2 U.S.C. § 9607(a), B&M filed a counter-claim against the United States, and a third-party claim

against the Town of Ayer (“the Town”), for contribution. The proposed Consent Decree, which is attached hereto as Exhibit 1, resolves all these claims.

Under the proposed Consent Decree, B&M shall reimburse the Army a total of \$2.4 million over a period of three years, plus interest. These funds will be deposited into the Army’s Environmental Restoration Account for future environmental clean-up work, less certain administrative fees, not to exceed 3%, to be allocated to the Department of Justice. No obligations are imposed on the Town of Ayer or upon the United States as defendants.

At this time, the Court should not take any action with respect to the proposed Consent Decree. Pursuant to Section 122(d)(2) of CERCLA, 42 U.S.C. § 9622(d)(2), and Department of Justice policy, the United States will shortly publish a notice of the lodging of the Consent Decree in the Federal Register and provide the public with a 30-day comment period. The United States will file a motion seeking the Court’s approval of the Consent Decree unless comments are filed with the Department of Justice during this 30-day comment period demonstrating that the Consent Decree is inappropriate, improper, or inadequate.

Respectfully submitted,

JEFFREY B. CLARK
Assistant Attorney General
Environment & Natural Resources Division

Date: March 13, 2019

/s/ C. A. Fiske
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CERTIFICATE OF SERVICE

I, Catherine Adams Fiske, hereby certify that on March 13, 2019 a true and accurate copy of the above document, which was filed via the court's ECF system, will be sent electronically by the ECF system to the registered participants as identified on the Notice of Electronic Filing.

/s/ C. A. Fiske
Catherine Adams Fiske